

Senate Bill No. 1276

CHAPTER 847

An act to amend Sections 270 and 739.3 of the Public Utilities Code, relating to telecommunications, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2004. Filed
with Secretary of State September 28, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1276, Bowen. Telecommunications: telephone service rates: universal service programs.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. The federal universal service principles also include the principle that elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications service. The act authorizes states to adopt regulations not inconsistent with Federal Communications Commission rules to preserve and advance universal service. The act requires that every telecommunications carrier that provides intrastate telecommunications services contribute, on an equitable and nondiscriminatory basis, in a manner determined by the state, to the preservation and advancement of universal service in that state. The act authorizes each state to adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the state, only to the extent that they adopt additional specific, predictable, and sufficient mechanisms that do not rely on or burden federal universal service support mechanisms.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to fix just and reasonable rates and charges. Existing law establishes the California High-Cost Fund-A Administrative Committee Fund, the California High-Cost Fund-B Administrative Committee Fund, the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the Deaf and Disabled Telecommunications Program Administrative Committee Fund, the Payphone Service Providers Committee Fund, and the California Teleconnect Fund Administrative Committee Fund in the State Treasury and requires that the moneys in the funds be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act.

This bill would provide that moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. The bill would require that the moneys in the funds be expended only to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation.

Existing law, until January 1, 2005, requires the commission to develop, implement, and maintain a program to establish a fair and equitable local rate structure designed to reduce any disparity in rates charged by small independent telephone corporations serving rural and small metropolitan areas, and a competitively neutral, and broadbased program to provide for transfer payments to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. Pursuant to this requirement, the commission has imposed a surcharge to intrastate telephone service to fund the transfer payments funded through the California High-Cost Fund-A Administrative Committee Fund and the California High-Cost Fund-B Administrative Committee Fund.

This bill would extend these programs until January 1, 2009. The bill would make other technical changes and would require the commission to structure the programs so that any charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service.

The bill would require the commission by January 1, 2006, to conduct a review of the program, as extended by the bill, for the establishment of a fair and equitable local telephone rate support structure, and a review of the California High-Cost Fund-B Administrative Committee Fund, to accomplish an adjustment of subsidy payments to reflect updated



operating costs and an evaluation of whether subsidy levels can be reduced while maintaining the goals of the program.

Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, funded through the California Teleconnect Fund Administrative Committee Fund.

This bill would appropriate \$17,974,000 from the California Teleconnect Fund Administrative Committee Fund to the commission for the purpose of transferring funds to telephone corporations providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations and authorized to receive these funds.

The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 270 of the Public Utilities Code, as amended by Section 1 of Chapter 903 of the Statutes of 2001, is amended to read:

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act or upon supplemental appropriation. Any appropriation from the California High-Cost Administrative Committee Fund-B for the purposes of the grant program established in Section



276.5 of the Public Utilities Code regarding rural telecommunications infrastructure, may not be made until all of the following events have occurred:

(1) The United States Supreme Court has decided *Iowa Utilities Board v. Federal Communications Commission* (219 F.3d 744 (8th Cir.); certiorari granted January 22, 2001).

(2) The commission recalculates the statewide average cost to serve a residential line stated in Decision 96-10-066, as it determines to be appropriate.

(3) The commission is current on all claims made by carriers for service provided in high-cost areas, except for those claims that the commission is in the process of investigating, contesting, or disallowing.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity, except as provided for in Sections 276 and 276.5.

(d) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 2. Section 270 of the Public Utilities Code, as added by Section 2 of Chapter 903 of the Statutes of 2001, is amended to read:

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act or upon supplemental appropriation.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity.

(d) This section shall become operative on January 1, 2006.



SEC. 3. Section 739.3 of the Public Utilities Code is amended to read:

739.3. (a) The commission shall develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations serving rural and small metropolitan areas. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies.

(b) For purposes of this section, small independent telephone corporations means those independent telephone corporations serving rural areas, as determined by the commission.

(c) The commission shall develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by universal service rate support to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. The commission shall develop and implement the program on or before October 1, 1996. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies. Except as otherwise explicitly provided, this subdivision does not limit the manner in which the commission collects and disburses funds, and does not limit the manner in which it may include or exclude the revenue of contributing entities in structuring the program.

(d) The commission shall structure the programs required by this section so that any charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

(e) The commission shall investigate reducing the level of universal service rate support, or elimination of universal service rate support in service areas with demonstrated competition.

(f) This section shall remain in effect until January 1, 2009, and as of that date is repealed, unless a later enacted statute that becomes effective on or before January 1, 2009, deletes or extends that date.

SEC. 4. The Public Utilities Commission shall, by January 1, 2006, conduct a review of the program established pursuant to subdivision (c) of Section 739.3 of the Public Utilities Code and of the California High-Cost Fund-B Administrative Committee Fund, to accomplish both of the following:

(a) Adjust universal service rate support payments to reflect updated operating costs.

(b) Evaluate whether universal service rate support levels can be reduced while still meeting the goals of this program.



SEC. 5. There is hereby appropriated from the California Teleconnect Fund Administrative Committee Fund to the Public Utilities Commission, seventeen million nine hundred seventy-four thousand dollars (\$17,974,000) for the purpose of transferring funds to telephone corporations providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations and authorized to receive these funds pursuant to Chapter 1.5 (commencing with Section 270) of Part 1 of Division 1.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The authority to expend money from the California Teleconnect Fund Administrative Committee Fund was deleted from the Budget Act for fiscal year 2004–05. The California Teleconnect Fund Administrative Committee Fund provides funding to compensate telephone corporations for providing service at discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations. In order to provide sufficient revenues for the telephone corporations authorized to receive these funds pursuant to Chapter 1.5 (commencing with Section 270) of Part 1 of Division 1 of the Public Utilities Code, so that those telephone corporations may continue to provide teleconnect services, it is necessary that this act take effect immediately.

